

Remarks

Claims 1-45 are pending. Claims 9-44 have been withdrawn. Claims 6 and 8 have been amended and claim 45 is newly added.

Applicants have enclosed new copies of the references objected to in the Office Action. Please acknowledge receipt on the accompanying 1449 form.

Objections

The disclosure stands objected to for informalities. Applicants have corrected these informalities.

The first objection was addressed by amending the disclosure to reference figure 4a and figure 4b. The amendment merely identifies portions of the originally filed drawings.

The second objection was addressed by removing the words "to allow moisture" from page 11, lines 14-15. Support for this amendment can be found on page 11, lines 15-20.

Applicants submit that the objections have been addressed and should be withdrawn.

§ 112 Rejections

Claim 8 stands rejected under 35 USC § 112, as not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Applicants have amended claim 8 to correct an obvious typographical error such that the amended claim now reads "The method as recited in claim 6, wherein the railroad car is aluminum and the covering of the moist cereal grain by-product is with a flexible tarp." This amendment was not made for reasons related to patentability. Support for this amendment can be found on page 3, line 23 of the specification.

In summary, Applicants submit that the rejection of claims 8 under 37 USC § 112, has been overcome, and that the rejection should be withdrawn.

§ 103 Rejections

Claims 1 and 2 stand rejected under 35 USC § 103(a) as being unpatentable over Bostrom et al. (US 5,046,912). Applicants respectfully traverse this rejection.

A proper prima facie case of obviousness requires that all claim limitations be taught or suggested by the prior art. The Examiner admits that the Bostrom et al. reference does not teach or suggest "moist grain by-products." In addition, Applicants assert that Bostrom et al. nowhere teaches or suggests "inverting the railroad container"

as recited in claims 1 and 2. Bostrom et al. states that its car "can roll from a normal vertical position . . . through an angle in the range of about 70 to about 110 degrees." However, the present specification indicates that an inverting car can supply moist grain by-products into containers below the grade of the inverted railroad container. (See page 3, lines 9-14.) A specific example of such a railroad car is one that can rotate at least about 120 to about 180 degrees, and is presented at page 9, lines 9-13. Accordingly, in addition to failing to teach or suggest moist grain by-products, Bostrom et al. also fails to teach or suggest "inverting the railroad container." Applicants, therefore, respectfully submit that claims 1-2 as originally presented are not obvious under 103 and request that this rejection be withdrawn.

Claims 3-5 each add additional features to claim 1, and the additionally cited references do not make up for the deficiencies of the Bostrom et al. reference. Thus, claims 3-5 as originally presented are not obvious under 103 and Applicants request that this rejection be withdrawn.

Claims 6 stands rejected under 35 USC § 103(a) as being unpatentable over Bostrom et al. (US 5,046,912) in view of Auld et al (US 1,496,196). Applicants respectfully traverse this rejection.

Claim 6 recites "moist cereal grain by-product" as well as "inverting the railroad container", and hence, the arguments presented above relating to the deficiencies of the Bostrom et al. reference apply to claim 6 as well.

The teachings provided in Auld et al. do not make up for the deficiencies of the Bostrom et al. reference and, therefore, the rejection of claim 6 under 35 USC § 103(a) as being unpatentable has been overcome and should be withdrawn.

Additionally, Applicants have amended claim 6 to remove the word "corn" which merely corrects an obvious typographical error. This amendment was not made for reasons relating to patentability and support for this amendment can be found elsewhere in original claim 6.

Claims 7 and 8 depend from claim 6 and the additionally cited references do not make up for the deficiencies of the Bostrom et al. reference. Thus, claim 7 and 8 are patentable for the reasons given above and the rejection of claims 7 and 8 under 35 USC § 103(a) should be withdrawn.

New Claims

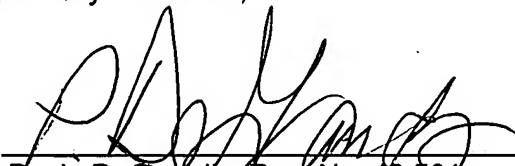
New claim 45 has been added and should be considered patentable for the reasons provided above. Support for new claim 45 can be found in the specification on page 9, lines 9-14.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

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Date

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